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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,318	03/18/2004	Donna Sue Davis	2003B101A	5374

7590 05/16/2007  
ExxonMobil Chemical Company  
Law Technology  
P.O. Box 2149  
Baytown, TX 77522-2149

EXAMINER
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PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

MAIL DATE	DELIVERY MODE
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05/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/803,318

Applicant(s)

DAVIS ET AL.

Examiner

Marc A. Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/12/07.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 23 – 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind et al (U.S. Patent Publication No. 2001/0003624) in view of Agouri et al (U.S. Patent No. 4,126,648).

With regard to Claims 23 – 25, 31 – 33, 37, 43 and 47, Lind et al disclose a multilayer film (paragraph 0013) comprising three layers (at least one layer; paragraph 0013) of a blend of high density polyethylene and low density polyethylene which are made from metallocene catalysts and are therefore metallocene polyethylenes (paragraph 0013); the metallocene polyethylene has a density of 0.940 g/cm<sup>3</sup> (paragraph 0020); Lind et al therefore disclose a and A/B/A structure, wherein the A layers are comprise a blend comprising a metallocene polyethylene having a density between 0.915 to 0.940 g/cm<sup>3</sup>, and the B is a core layer comprising a blend comprising a high density polyethylene and a low density polyethylene. Lind et al fail to disclose a blend comprising 60 – 90 wt.% low density polyethylene and 40 – 10 wt.% high density polyethylene.

Agouri et al teach a film having 60 – 90 wt.% low density polyethylene and 40 – 10 wt.% high density polyethylene (column 2, lines 16 – 20) for the purpose of obtaining a film having superior properties to a film comprising high density polyethylene alone (column 5, lines 60 –

64). One of ordinary skill in the art would therefore have recognized the advantage of providing for the thickness of Agouri et al in Lind et al, which comprises a film, depending on the desired properties of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a blend comprising 60 – 90 wt.% low density polyethylene and 40 – 10 wt.% high density polyethylene in Lind et al in order to obtain a film having superior properties to a film comprising high density polyethylene alone as taught by Agouri et al.

With regard to Claims 26 and 39, the metallocene polyethylene disclosed by Lind et al is linear low density polyethylene (paragraph 0013).

With regard to Claims 27 and 40 – 41, the high density polyethylene disclosed by Lind et al has a density of 0.960 to 0.965 g/cm<sup>3</sup> (paragraph 0020).

With regard to Claims 28, 38 and 42, the low density polyethylene disclosed by Lind et al has a density of 0.925 to 0.935 g/cm<sup>3</sup> (paragraph 0020).

With regard to Claims 29 – 30 and 44 – 46, the film disclosed by Agouri et al has a thickness of less than 50 microns (column 1, lines 10 – 11), and therefore has a 1% secant modulus MD of at least 500 mPa and 1% secant modulus TD of at least 600 mPa and a difference in Gloss 20 and 60 of 2% or less.

With regard to Claims 34 and 48, the film disclosed by Lind et al is coextruded (paragraph 0056) and heat – shrinkable (paragraph 0064).

With regard to Claims 35 and 49, Lind et al disclose a group of items wrapped by the film (pieces of meat; paragraph 0004); Lind et al therefore disclose a collation shrink wrapped structure.

With regard to Claim 36, Lind discloses the interchangeable use of the film as a packaging film or as a packaging bag (paragraph 0003) and the film disclosed by Lind is heat shrinkable (paragraph 0002); Lind therefore discloses a process of making a packaged structure comprising the wrapping of a package comprising the bag with the film and heating the wrapped package to shrink the film and applying a holding force.

#### ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 23 – 35 and 37 – 38 as being unpatentable over Lind et al (U.S. Patent Publication No. 2001/0003624) in view of Agouri et al (U.S. Patent No. 4,126,648), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons stated below.

Applicant argues, on page 7 of the remarks dated February 12, 2007, that the rejections are improper because Lind discloses at least three layers, in which at least one layer is a barrier layer, described at paragraph 0014.

However, as stated on page 4 of the previous Action, Lind is not limited to a film comprising a barrier layer; Lind also discloses a film comprising one layer comprising a single layer comprising an ethylene polymer (paragraph 0013) or a multilayer film comprising ethylene polymers made with a metallocene catalyst (paragraph 0013) for providing increased strength

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and faster bag making speeds (paragraph 0013). Alternatively, the film may also comprise a barrier layer as disclosed in paragraph 0014, but paragraph 0014 is not mentioned in, and is not relevant to, the rejection.

Applicant also argues, on page 8, that Agouri et al do not teach a multilayer film or a metallocene catalyst.

However, as stated on page 2 of the previous Action, a multilayer film and metallocene catalyst are disclosed by Lind; Agouri et al is cited only for the teaching that a film comprising 60 – 90 wt.% low density polyethylene and 40 – 10 wt.% high density provides a film having superior properties to a film comprising high density polyethylene alone.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 01/14/07*  
Marc A. Patterson, PhD.  
Primary Examiner  
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